

Patent Application Serial No. 09/868,090
Response to Office Action Dated September 24, 2003
Response Date December 24, 2003

Remarks/Arguments

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments and the following remarks.

As shown in the above listing of claims, claims 1-20, 24, 30, and 32 have been canceled. Claims 21, 22, 26, 28, 35 and 36 have been amended. New claim 37 has been added. Because the applicant has added one additional independent claim, the Commissioner is hereby authorized to charge the necessary fee for a small entity for this additional claim to Collard & Roe, P.C.'s account of 03-2468.

The Examiner has rejected claims 21-23, 25, 26 and 33 35 under 35 U.S.C. § 102 (b) as being anticipated by *Lubbers et al.* In addition, the Examiner has rejected claims 27, 28, and 31 as being anticipated by *Lubbers et al.* hereinafter *Lubbers*, in view of *Burt*.

Independent claims 21, 35 and 36 have been amended. In addition, dependent claims 26, and 28 have also been amended to

Patent Application Serial No. 09/868,090
Response to Office Action Dated September 24, 2003
Response Date December 24, 2003

change the term "vertical conveyor" to "stationary vertical conveyor". Support for this amendment is located in the specification on page 8, second paragraph.

The applicant thus believes that with this amendment, the remaining claims are patentable over the above cited references and rejections by the Examiner, in particular, the applicant believes that the remaining claims are patentably distinct over *Lubbers* and *Burt* and also the combination of *Lubbers* and *Burt*.

Lubbers discloses mobile vertical conveyers which can be in the form of forklifts or moving trucks or any other type of rail-driven mobile conveyor which include a vertical conveying means attached thereto. In addition, in *Lubbers*, this mobile vertical conveyor parks itself in an aisle whereby it sends and receives goods in the aisle via horizontal conveyors or a transport device or transfer vehicles (200). This mobile vertical conveyor also contains rails that must be movable or retractable and are used to receive the horizontally driven transfer vehicles (200). Thus, to move a load from one level to another the transfer vehicles must move into the vertical conveyor and onto the carriage assembly inside of the vertical conveyor.

Patent Application Serial No. 09/868,090
Response to Office Action Dated September 24, 2003
Response Date December 24, 2003

Lubbers has consistently described and stated throughout the reference that once a transfer vehicle is loaded with a load, the transfer vehicle can then be loaded onto a vortical conveyor with the load. That is, the transfer vehicle moves onto a platform or a carriage assembly 170. For example, in Lubbers, column 23, lines 44-46 describe "the operation of the mobile transfer vehicle as it is discharged from the mobile vertical lift and travels down an aisle..." Thus, as stated in column 24, lines 48 and 49, the system of Lubbers is set up "to dispatch the mobile transfer vehicle 200 from the mobile vertical lift 100..." Another distinguishing statement in Lubbers is found in column 27, lines 61-63 and is as follows "... to propel the mobile transfer vehicle 200 back to the end of the aisle for movement onto the mobile vertical lift."

Thus, Lubbers consistently describes throughout the reference, a system wherein a mobile transfer vehicle is loaded onto a mobile vertical conveyor and then transported to the proper aisle.

In contrast thereto, claims 21, and 36 which are both directed towards methods for transporting goods include the

Patent Application Serial No. 09/868,090
Response to Office Action Dated September 24, 2003
Response Date December 24, 2003

additional step (b) which involves removing the load from the transport device before placing this load into the vertical conveyor. This step is not shown in *Lubbers* and would, in fact render *Lubbers* unmanageable if this step took place. In *Lubbers* the transfer device 200 along with the load must be loaded into the vertical conveyor and particularly onto the carriage assembly 170 wherein this transfer device 200 and the load are transported to different aisles and different levels via the mobile vertical transfer device. Thus, since claims 21 and 36 contain the above step (b) which is not shown in the prior art, and because *Lubbers* teaches away from this step, the applicant believes that claims 21, and 36 are patentable over the above cited references and rejections of the Examiner.

In addition, step (e) of claims 21, and 36 is not shown in the above cited references, particularly *Lubbers*. For example, in *Lubbers*, the load moves with the transport device out from the vertical conveyor. With the present invention as in claims 21 and 36, the load is moved out from the vertical conveyor via the lifting and pushing device. Therefore, because the above cited references do not show this step, the applicant believes that these claims are patentable over the above cited reference as

Patent Application Serial No. 09/868,090
Response to Office Action Dated September 24, 2003
Response Date December 24, 2003

well.

Furthermore, the location and purpose of the vertical conveyors in Lubbers is entirely different than in that of the present invention. Lubbers repeatedly describes the vertical conveyors as a "mobile vertical lift 100" (see for example column 3 lines 15-16 and 28). This mobile vertical lift is also repeatedly shown in as being associated with a set of wheels as shown in FIGS. 2, 3, and 5.

In contrast, the present invention as stated in independent method claim 21, and 36 and in independent claim 35 relates to a stationary vertical conveyor which is entirely different from a mobile vertical conveyor. In addition, in the present invention as in claims 21, 35 and 36, the conveyor is stationed adjacent to the rack and not in the aisle bay.

Lubbers discloses that the mobile vertical conveyor moves into a position at an end of an aisle as shown by way of example in FIGS. 1, 2 and 25.

Therefore, because Lubbers discloses that the vertical

Patent Application Serial No. 09/868,090
Response to Office Action Dated September 24, 2003
Response Date December 24, 2003

conveyor is parked in front of an aisle to dispatch a transfer device it teaches away from claims 21, 35 and 36. For example, step d of claims 21 and 36 are not shown, taught or suggested in either Lubbers or Burt, and the combination of either Lubbers or Burt do not suggest step d in either claims 21 or 36 which includes transporting the load up in front of a target rack bay. Rather, in Lubbers, the load is transported up in front of the rack aisle, not the rack bay.

Claim 22 depends from claim 21, therefore the applicant believes that claim 22 is patentable over the above cited references taken either singly or in combination.

The Claim 35 also differs significantly from the above cited references as well. In claim 35, the vertical conveyors have now been re-characterized as "stationary vertical conveyors" in contrast with those vertical conveyors disclosed in Lubbers.

In addition, because claims 23, 25-29, 31, 33 and 34 all depend either directly or indirectly from claim 35, the applicant believes that these claims are patentable over the above cited references taken either singly or in combination.

Patent Application Serial No. 09/868,090
Response to Office Action Dated September 24, 2003
Response Date December 24, 2003

New claim 37 has also been added. This new claim 37 states that the stationary vertical conveyors:

"has at least one side coupled to a corresponding rack bay and at least one side coupled to a corresponding rack aisle"

The above references do not show this feature. In addition, this feature is supported in the specification, in particular FIG. 2 of the specification shows for example an embodiment wherein the vertical conveyor is disposed adjacent to a rack bay and a rack aisle so that the transport element can move adjacent to the vertical conveyor to load and unload to and from the vertical conveyor in the same manner that the transport element would load and unload to and from a rack bay. Additional support for this feature can be found in pages 2 and 3 of the specification.

This important feature is not shown in any of the above references and there is no suggestion for this feature in any of the above references. Therefore, the applicant believes that claim 37 is patentable over the above cited reference.


Therefore, early allowance of the remaining claims is

Patent Application Serial No. 09/868,090
Response to Office Action Dated September 24, 2003
Response Date December 24, 2003

respectfully requested.

Respectfully submitted,

Johann Walter GROND



COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802
WCC:kkw
Enclosure:

Allison C. Collard, Reg.No.22,532
Edward R. Freedman, Reg.No.26,048
William C. Collard, Reg.No.38,411
Attorneys for Applicant

I hereby certify that this correspondence is being sent by
facsimile transmission to the U.S.P.T.O. to Patent Examiner C.
Fox, Group 3652 to 1-703-872-9326 on December 24, 2003.


William C. Collard

Re: Patent Application No. 09/868,090